

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHELE M. BERNARDO and JOSEPH
BERNARDO, h/w,

Plaintiffs,

v.

MAXIM HEALTHCARE SERVICES, INC.,
and MAXIM HEALTH SYSTEMS, A
DIVISION OF MAXIM HEALTHCARE
SERVICES, INC.

Defendants

CIVIL ACTION

DOCKET NO.

NOTICE OF REMOVAL

Defendants, Maxim Healthcare Services, Inc., and Maxim Health Systems, A Division of Maxim Healthcare Services, Inc. move this Court for Removal and, in support thereof, states the following reasons:

1. A Civil Action seeking to recover monetary damages has been commenced by Plaintiffs and is now pending in the Court of Common Pleas of Philadelphia County, Pennsylvania, wherein Michele M. Bernardo and Joseph Bernardo are Plaintiffs, and which action is numbered Court of Common Pleas of Philadelphia County, October Term, 2017, No. 02489. A copy of Plaintiff's Writ of Summons is attached hereto, made a part hereof and marked as Exhibit "A".
2. The Writ of Summons in the Court of Common Pleas of Philadelphia County, October Term, 2017, No. 02489 was filed on October 19, 2017.
3. Plaintiffs served Defendants with the Writ of Summons via certified mail on November 2, 2017 and November 3, 2017.
4. The aforesaid action involves a controversy over which this Court would have original jurisdiction in that it is a controversy between parties of different states.

5. Plaintiffs are citizens of the State of Pennsylvania.

6. Defendants, Maxim Healthcare Services, Inc., and Maxim Health Systems, A Division of Maxim Healthcare Services, Inc. are corporate entities organized and existing under the laws of the State of Maryland with its principal place of business at 7227 Lee Deforest Drive, Columbia, MD 21046.

7. The Writ of Summons filed in the Court of Common Pleas of Philadelphia did not contain any allegation of the amount in controversy.

8. In fact, in late as October 10, 2017, counsel for Plaintiffs made a settlement demand of \$50,000 which did not satisfy the requirements of 28 U.S.C. Section 1332(a) which states in pertinent part:

The District Court shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between -

(1) citizens of different states;

9. The Court of Common Pleas of Philadelphia scheduled a Case Management Conference to occur on February 22, 2018. On February 22, 2018, Plaintiffs filed a Case Management Conference Memorandum which is attached hereto as Exhibit "B".

10. On page two at paragraph 19 of Exhibit "B", a demand of \$350,000 was made for the first time.

11. This Removal is timely as the matter became removable for the first time upon Defendants' receipt of Plaintiffs' Case Management Conference Memorandum on February 22, 2018. Pursuant to 28 U.S.C. Section 1446(b)(3) "except as provided in subsection (c), if the case stated by the initial pleading is not removable, a Notice of Removal may be filed within thirty (30) days after receipt by the Defendant, through service or otherwise, of a copy of an amended pleading, motion, Order or other paper from which it may first be ascertained that the case is one which is or has become removable."

12. This Removal Petition is filed within thirty (30) days of Defendants' receipt of the Case Management Conference Memorandum which was the first pleading, motion, order or other paper from which it could have first ascertained that the case had become removable as the amount in controversy is \$350,000.

13. Plaintiffs are citizens of Pennsylvania. Defendants' place of incorporation is Maryland and the principal place of business is 7227 Lee Deforest Drive, Columbia, Maryland 21046.

14. Therefore, as Defendants are citizens of Maryland and Plaintiffs are citizens of Pennsylvania, complete diversity of citizenship between Plaintiffs and Defendants exists.

15. Defendants, Maxim Healthcare Services, Inc., and Maxim Health Systems, A Division of Maxim Healthcare Services, Inc., are entitled to remove this action pursuant to 28 U.S.C.A. Section 1441, et seq.

WHEREFORE, Defendants, Maxim Healthcare Services, Inc., and Maxim Health Systems, A Division of Maxim Healthcare Services, Inc., request that the aforesaid Philadelphia County Court of Common Pleas Action captioned as aforesaid be removed from that Court to the Federal District Court in and for the Eastern District of Pennsylvania for trial and determination of all issues for the reasons stated above.

SWEENEY & SHEEHAN, P.C.

By: 

Barbara A. O'Connell
I.D. No. 46461
1515 Market Street, Suite 1900
Philadelphia, PA 19102
(215) 563-9811
barbara.oconnell@sweeneyfirm.com